

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of : Customer Number: 46320  
Andrew HICKSON, et al. : Confirmation Number: 9630  
Application No.: 10/016,906 : Group Art Unit: 2151  
Filed: December 14, 2001 : Examiner: J. Walsh  
:  
For: **SELECTION OF COMMUNICATION PROTOCOL FOR MESSAGE TRANSFER  
BASED ON QUALITY OF SERVICE REQUIREMENTS**

**REPLY BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted under 37 C.F.R. § 41.41 in response to the Second EXAMINER'S ANSWER dated October 24, 2008.

Upon reviewing the Second Examiner's Answer, Appellants have been unable to find any substantial differences between the Second Examiner's Answer and the First Examiner's Answer dated June 12, 2007, with one exception. Specifically, the Second Examiner's Answer omits "Argument 8" found on page 12 of the First Examiner's Answer. Additionally previously-presented Arguments 9 and 10 have been respectfully renamed Arguments 8 and 9 within the Second Examiner's Answer. Thus, although being given an opportunity to address the issues raised by Appellants in the First Reply Brief dated August 13, 2007, the Examiner did not.

Of particular note is the Examiner's failure to address the issues raised by Appellants on pages 11 and 12 of the First Reply Brief as to the differences between independent claim 5, which the Examiner addressed within the Examiner's statement of the rejection, and independent claims 18 and 20-21, which the Examiner did not address within the statement of the rejection. Instead, the Examiner referred to the analysis of claim 5 (see, e.g., the paragraph spanning pages 6 and 7 of the Second Examiner's Answer). However, as explicitly pointed out in the First Reply Brief, there are substantial differences between independent claim 5 and independent claims 18 and 20-21. As an aside, the table spanning pages 11 and 12 of the First Reply Brief inadvertently refers to "Claim 8" instead of "Claim 18."

For the reasons set forth in the Appeal Brief of January 30, 2007, in the First Reply Brief, and for those set forth herein, Appellants respectfully solicit the Honorable Board to reverse the Examiner's rejection under 35 U.S.C. § 102.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: December 23, 2008

Respectfully submitted,

/Scott D. Paul/

Scott D. Paul

Registration No. 42,984

Steven M. Greenberg

Registration No. 44,725

Phone: (561) 922-3845

CUSTOMER NUMBER 46320